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OFFICE OF PETITIONS

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In re Application of	:	
Richard L. Franklin	:	DECISION ON
Application No. 10/750,184	:	APPLICATION FOR
Filed: Dec. 31, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
ARC-1001USCON1	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT" filed on December 29, 2010. Applicants request that the Patent Term Adjustment for the above-identified patent be increased by 457 days from 51 days to 508 days.

The application for patent term adjustment patent is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is FIVE HUNDRED EIGHT (508) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 30, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 51 days (824 days of Office delay less 773 days of applicant delay). The subject application for patent term adjustment was timely filed on December 29, 2010.¹

Applicants dispute the reduction of 457 days for the filing of an supplemental response on December 7, 2007, 457 days after the day after the date a reply was filed, September 6, 2006.

Applicants assert that the paper filed on December 7, 2007, was a correction to the petition under 37 CFR 1.78, filed on August

¹ Office PALM records indicate that the issue fee was paid on December 29, 2010.

23, 2006, rather than a supplemental reply to the Office action mailed on May 22, 2006, to which the original response was filed on September 6, 2006.

37 CFR 1.704(c)(8) provides that the filing of a supplemental reply, other than one expressly requested by the examiner, constitutes a failure to engage in reasonable efforts to conclude processing or examination.

The record has been reviewed and it is concluded that, under the circumstances of this case, the response filed on December 7, 2007 is not a supplemental response or other paper within the meaning of 37 CFR 1.704(c)(8). Accordingly, the 457 day reduction is not warranted and will be removed.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance is revised to 508 days (824 days of PTO delay, reduced by 316 (773 - 457) days of Applicant delay).

The application is being forwarded to the Office of Data Management to await payment of the issue fee. Upon timely payment of the issue fee, the patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.



Douglas Wood
Senior Petitions Attorney
Office of Petitions

Encl: Revised PAIR Calculation

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 10/750,184

Filing or 371(c) Date:	12-31-2003	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	824
A Delays:	824	PTO Manual Adjustments:	457
B Delays:	0	Applicant Delays:	773
C Delays:	0	Total PTA Adjustments:	508

Patent Term Adjustment History**Explanation Of Calculations**

Number	Date	Contents Description	PTO(Days)	APPL (Days)	Start
119	04-19-2011	Adjustment of PTA Calculation by PTO	457		0
110	09-30-2010	Mail Notice of Allowance			94
109	09-28-2010	Issue Revision Completed			0
108	09-28-2010	Document Verification			0
107	09-28-2010	Notice of Allowance Data Verification Completed			0
106	09-23-2010	Allowability Notice			0
103	09-20-2010	Date Forwarded to Examiner			0
102	09-21-2010	Mail Appeals conf. Rej. withdrawn			0
99	09-16-2010	Pre-Appeals Conference Decision - Rejection Withdrawn			0
97	09-08-2010	case Inherited			0
96	09-08-2010	Case Docketed to Examiner in GAU			0
95	09-01-2010	Request for Pre-Appeal Conference Filed			0
94	09-01-2010	Notice of Appeal Filed		92	92
93	09-01-2010	Request for Extension of Time - Granted			0
92	03-01-2010	Mail Final Rejection (PTOL - 326)			0
91	02-26-2010	Final Rejection			0
86	12-17-2009	Date Forwarded to Examiner			0
85	12-11-2009	Response after Non-Final Action		90	82
84	12-11-2009	Request for Extension of Time - Granted			0
83	06-26-2009	Filing Receipt - Corrected			0
82	06-12-2009	Mail Non-Final Rejection			0
81	06-11-2009	Non-Final Rejection			0
80	05-28-2009	Mail-Petition Decision - Dismissed			0
79	05-28-2009	Petition Decision - Dismissed			0
78	03-14-2006	Petition Entered			0
77	04-08-2009	Date Forwarded to Examiner			0
76	04-01-2009	Supplemental Response		43	70
73	03-03-2009	Date Forwarded to Examiner			0
72	02-17-2009	Amendment Submitted/Entered with Filing of CPA/RCE			0
71	03-03-2009	Date Forwarded to Examiner			0
70	02-17-2009	Request for Continued Examination (RCE)			60
69	03-03-2009	Disposal for a RCE / CPA / R129			0
68	02-17-2009	Request for Extension of Time - Granted			0
67	02-17-2009	Workflow - Request for RCE - Begin			0
66	11-26-2008	Mail Advisory Action (PTOL - 303)			0
65	11-25-2008	Advisory Action (PTOL-303)			0
62	10-21-2008	Date Forwarded to Examiner			0
61	07-17-2008	Amendment/Argument after Notice of Appeal			0
60	07-17-2008	Notice of Appeal Filed		91	55
59	07-17-2008	Request for Extension of Time - Granted			0
57	08-11-2008	Filing Receipt - Corrected			0

56	07-25-2008	CRF Is Good Technically / Entered into Database		0
55	01-17-2008	Mail Final Rejection (PTOL - 326)	376	41
54	01-16-2008	Final Rejection		0
53	09-06-2006	Information Disclosure Statement considered		0
50	01-14-2008	Mail-Petition Decision - Granted		0
49	01-14-2008	Petition Decision - Granted		0
48	01-10-2008	Filing Receipt - Corrected		0
47	12-14-2007	Date Forwarded to Examiner		0
46	12-07-2007	Supplemental Response	457	41
45	11-09-2007	Filing Receipt - Corrected		0
44	09-06-2006	Reference capture on IDS		0
43	09-06-2006	Information Disclosure Statement (IDS) Filed		0
42	09-14-2007	Date Forwarded to Examiner		0
41	09-06-2006	Response to Election / Restriction Filed		0
40	09-06-2007	Request for Extension of Time - Granted		0
39	09-06-2006	Information Disclosure Statement (IDS) Filed		0
38	08-23-2006	Petition Entered		0
37	08-29-2006	Correspondence Address Change		0
36	07-06-2006	Mail Supplemental Restriction / Election Requirement		0
35	06-29-2006	Supplemental Restriction		0
34	06-16-2006	Correspondence Address Change		0
33	06-19-2006	Change in Power of Attorney (May Include Associate POA)		0
32	05-22-2006	Mail Restriction Requirement	448	-1
31	05-17-2006	Restriction/Election Requirement		0
30	08-30-2005	Correspondence Address Change		0
29	11-16-2004	Case Docketed to Examiner in GAU		0
28	11-16-2004	IFW TSS Processing by Tech Center Complete		0
27	07-01-2004	Preliminary Amendment		0
26	12-31-2003	Preliminary Amendment		0
25	10-28-2004	Application Return from OIPE		0
24	10-28-2004	Application Is Now Complete		0
23	10-28-2004	Application Return TO OIPE		0
22	10-28-2004	Application Return from OIPE		0
21	10-28-2004	Application Return TO OIPE		0
20	10-28-2004	Application Return from OIPE		0
19	10-28-2004	Application Is Now Complete		0
18	10-28-2004	Pre-Exam Office Action Withdrawn		0
17	10-28-2004	Application Return TO OIPE		0
16	10-27-2004	Application Dispatched from OIPE		0
15	10-27-2004	Application Is Now Complete		0
14	10-27-2004	Correspondence Address Change		0
13	07-01-2004	Workflow incoming amendment IFW		0
12	05-10-2004	Notice Mailed--Application Incomplete--Filing Date Assigned		0
5	03-11-2004	Cleared by L&R (LARS)		0
4	02-26-2004	Referred to Level 2 (LARS) by OIPE CSR		0
3	02-26-2004	CASE CLASSIFIED BY OIPE		0
2	01-22-2004	IFW Scan & PACR Auto Security Review		0
1	12-31-2003	Initial Exam Team nn		0

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